

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 258

FINAL READING

Introduced by Williams, 36.

Read first time January 15, 2019

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to finance; to amend sections 8-209, 8-218,
2 8-346, 44-915, and 76-2,121, Reissue Revised Statutes of Nebraska,
3 sections 8-135, 8-143.01, 8-157.01, 8-167.01, 8-183.04, 8-1,140,
4 8-318, 8-355, 8-602, 21-17,115, 45-702, and 81-885.01, Revised
5 Statutes Cumulative Supplement, 2018, and section 4A-108, Uniform
6 Commercial Code, Revised Statutes Cumulative Supplement, 2018; to
7 change provisions relating to the Nebraska Banking Act, the Nebraska
8 Trust Company Act, building and loan associations, the Credit Union
9 Act, the Privacy of Insurance Consumer Information Act, the
10 Residential Mortgage Licensing Act, real estate closing agents, the
11 Nebraska Real Estate License Act, the Uniform Commercial Code, and
12 funds transfers; to update references to certain federal provisions;
13 to revise powers of state-chartered banks, building and loan
14 associations, and credit unions; to change executive officer's and
15 loan officer's license fees; to eliminate and replace obsolete
16 references to the Office of Thrift Supervision; to repeal the
17 original sections; and to declare an emergency.
18 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 8-135, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 8-135 (1) All persons, regardless of age, may become depositors in
4 any bank and shall be subject to the same duties and liabilities
5 respecting their deposits. Whenever a deposit is accepted by any bank in
6 the name of any person, regardless of age, the deposit may be withdrawn
7 by the depositor by any of the following methods:

8 (a) Check or other instrument in writing. The check or other
9 instrument in writing constitutes a receipt or acquittance if the check
10 or other instrument in writing is signed by the depositor and constitutes
11 a valid release and discharge to the bank for all payments so made; or

12 (b) Electronic means through:

13 (i) Preauthorized direct withdrawal;

14 (ii) An automatic teller machine;

15 (iii) A debit card;

16 (iv) A transfer by telephone;

17 (v) A network, including the Internet; or

18 (vi) Any electronic terminal, computer, magnetic tape, or other
19 electronic means.

20 (2) All persons, individually or with others and regardless of age,
21 may enter into an agreement with a bank for the lease of a safe deposit
22 box and shall be bound by the terms of the agreement.

23 (3) This section shall not be construed to affect the rights,
24 liabilities, or responsibilities of participants in an electronic fund
25 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693
26 et seq., as such ~~the~~ act existed on January 1, 2019 ~~2018~~, and shall not
27 affect the legal relationships between a minor and any person other than
28 the bank.

29 Sec. 2. Section 8-143.01, Revised Statutes Cumulative Supplement,
30 2018, is amended to read:

31 8-143.01 (1) No bank shall extend credit to any of its executive

1 officers, directors, or principal shareholders or to any related interest
2 of such persons in an amount that, when aggregated with the amount of all
3 other extensions of credit by the bank to that person and to all related
4 interests of that person, exceeds the higher of twenty-five thousand
5 dollars or five percent of the bank's unimpaired capital and unimpaired
6 surplus unless (a) the extension of credit has been approved in advance
7 by a majority vote of the entire board of directors of the bank, a record
8 of which shall be made and kept as a part of the records of such bank,
9 and (b) the interested party has abstained from participating directly or
10 indirectly in such vote.

11 (2) No bank shall extend credit to any of its executive officers,
12 directors, or principal shareholders or to any related interest of such
13 persons in an amount that, when aggregated with the amount of all other
14 extensions of credit by the bank to that person and to all related
15 interests of that person, exceeds five hundred thousand dollars except by
16 complying with the requirements of subdivisions (1)(a) and (b) of this
17 section.

18 (3) No bank shall extend credit to any of its executive officers,
19 and no such executive officer shall borrow from or otherwise become
20 indebted to his or her bank, except in the amounts and for the purposes
21 set forth in subsection (4) of this section.

22 (4) A bank shall be authorized to extend credit to any of its
23 executive officers:

24 (a) In any amount to finance the education of such executive
25 officer's children;

26 (b)(i) In any amount to finance or refinance the purchase,
27 construction, maintenance, or improvement of a residence of such
28 executive officer if the extension of credit is secured by a first lien
29 on the residence and the residence is owned or is expected to be owned
30 after the extension of credit by the executive officer and (ii) in the
31 case of a refinancing, only the amount of the refinancing used to repay

1 the original extension of credit, together with the closing costs of the
2 refinancing, and any additional amount thereof used for any of the
3 purposes enumerated in this subdivision are included within this category
4 of credit;

5 (c) In any amount if the extension of credit is (i) secured by a
6 perfected security interest in bonds, notes, certificates of
7 indebtedness, or Treasury Bills of the United States or in other such
8 obligations fully guaranteed as to principal and interest by the United
9 States, (ii) secured by unconditional takeout commitments or guarantees
10 of any department, agency, bureau, board, commission, or establishment of
11 the United States or any corporation wholly owned directly or indirectly
12 by the United States, or (iii) secured by a perfected security interest
13 in a segregated deposit account in the lending bank; or

14 (d) For any other purpose not specified in subdivisions (a), (b),
15 and (c) of this subsection if the aggregate amount of such other
16 extensions of credit to such executive officer does not exceed, at any
17 one time, the greater of two and one-half percent of the bank's
18 unimpaired capital and unimpaired surplus or twenty-five thousand
19 dollars, but in no event greater than one hundred thousand dollars or the
20 amount of the bank's lending limit as prescribed in section 8-141,
21 whichever is less.

22 (5)(a) Except as provided in subdivision (b) or (c) of this
23 subsection, any executive officer shall make, on an annual basis, a
24 written report to the board of directors of the bank of which he or she
25 is an executive officer stating the date and amount of all loans or
26 indebtedness on which he or she is a borrower, cosigner, or guarantor,
27 the security therefor, and the purpose for which the proceeds have been
28 or are to be used.

29 (b) Except as provided in subdivision (c) of this subsection, in
30 lieu of the reports required by subdivision (a) of this subsection, the
31 board of directors of a bank may obtain a credit report from a recognized

1 credit agency, on an annual basis, for any or all of its executive
2 officers.

3 (c) Subdivisions (a) and (b) of this subsection do not apply to any
4 executive officer if such officer is excluded by a resolution of the
5 board of directors or by the bylaws of the bank from participating in the
6 major policymaking functions of the bank and does not actually
7 participate in the major policymaking functions of the bank.

8 (6) No bank shall extend credit to any of its executive officers,
9 directors, or principal shareholders or to any related interest of such
10 persons in an amount that, when aggregated with the amount of all other
11 extensions of credit by the bank to that person and to all related
12 interests of that person, exceeds the lending limit of the bank as
13 prescribed in section 8-141.

14 (7)(a) Except as provided in subdivision (b) of this subsection, no
15 bank shall extend credit to any of its executive officers, directors, or
16 principal shareholders or to any related interest of such persons unless
17 the extension of credit (i) is made on substantially the same terms,
18 including interest rates and collateral, as, and following credit-
19 underwriting procedures that are not less stringent than, those
20 prevailing at the time for comparable transactions by the bank with other
21 persons that are not covered by this section and who are not employed by
22 the bank and (ii) does not involve more than the normal risk of repayment
23 or present other unfavorable features.

24 (b) Nothing in subdivision (a) of this subsection shall prohibit any
25 extension of credit made by a bank pursuant to a benefit or compensation
26 program under the provisions of 12 C.F.R. 215.4(a)(2), as such regulation
27 existed on January 1, 2019.

28 (8) For purposes of this section:

29 (a) Executive officer means a person who participates or has
30 authority to participate, other than in the capacity of director, in the
31 major policymaking functions of the bank, whether or not the officer has

1 an official title, the title designates such officer as an assistant, or
2 such officer is serving without salary or other compensation. Executive
3 officer includes the chairperson of the board of directors, the
4 president, all vice presidents, the cashier, the corporate secretary, and
5 the treasurer, unless the executive officer is excluded by a resolution
6 of the board of directors or by the bylaws of the bank from
7 participating, other than in the capacity of director, in the major
8 policymaking functions of the bank, and the executive officer does not
9 actually participate in such functions. A manager or assistant manager of
10 a branch of a bank shall not be considered to be an executive officer
11 unless such individual participates or is authorized to participate in
12 the major policymaking functions of the bank; and

13 (b) Unimpaired capital and unimpaired surplus means the sum of:

14 (i) The total equity capital of the bank reported on its most recent
15 consolidated report of condition filed under section 8-166;

16 (ii) Any subordinated notes and debentures approved as an addition
17 to the bank's capital structure by the appropriate federal banking
18 agency; and

19 (iii) Any valuation reserves created by charges to the bank's income
20 reported on its most recent consolidated report of condition filed under
21 section 8-166.

22 (9) Any executive officer, director, or principal shareholder of a
23 bank or any other person who intentionally violates this section or who
24 aids, abets, or assists in a violation of this section is guilty of a
25 Class IV felony.

26 (10) The Director of Banking and Finance may adopt and promulgate
27 rules and regulations to carry out this section, including rules and
28 regulations defining or further defining terms used in this section,
29 consistent with the provisions of 12 U.S.C. 84 and implementing
30 Regulation O as such section and regulation existed on January 1, 2019
31 ~~2018~~.

1 Sec. 3. Section 8-157.01, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 8-157.01 (1) Any establishing financial institution may establish
4 and maintain any number of automatic teller machines at which all banking
5 transactions, defined as receiving deposits of every kind and nature and
6 crediting such to customer accounts, cashing checks and cash withdrawals,
7 transferring funds from checking accounts to savings accounts,
8 transferring funds from savings accounts to checking accounts,
9 transferring funds from either checking accounts and savings accounts to
10 accounts of other customers, transferring payments from customer accounts
11 into accounts maintained by other customers of the financial institution
12 or the financial institution, including preauthorized draft authority,
13 preauthorized loans, and credit transactions, receiving payments payable
14 at the financial institution or otherwise, account balance inquiry, and
15 any other transaction incidental to the business of the financial
16 institution or which will provide a benefit to the financial
17 institution's customers or the general public, may be conducted. Any
18 automatic teller machine owned by a nonfinancial institution third party
19 shall be sponsored by an establishing financial institution. Neither such
20 automatic teller machines nor the transactions conducted thereat shall be
21 construed as the establishment of a branch or as branch banking.

22 (2) Any financial institution may become a user financial
23 institution by agreeing to pay the establishing financial institution the
24 automatic teller machine usage fee. Such agreement shall be implied by
25 the use of such automatic teller machines.

26 (3)(a)(i) All automatic teller machines shall be made available on a
27 nondiscriminating basis for use by Nebraska customers of a user financial
28 institution and (ii) all Nebraska automatic teller machine transactions
29 initiated by Nebraska customers of a user financial institution shall be
30 made on a nondiscriminating basis.

31 (b) It shall not be deemed discrimination if (i) an automatic teller

1 machine does not offer the same transaction services as other automatic
2 teller machines, (ii) there are no automatic teller machine usage fees
3 charged between affiliate financial institutions for the use of automatic
4 teller machines, (iii) the automatic teller machine usage fees of an
5 establishing financial institution that authorizes and directly or
6 indirectly routes Nebraska automatic teller machine transactions to
7 multiple switches, all of which comply with the requirements of
8 subdivision (3)(d) of this section, differ solely upon the fact that the
9 automatic teller machine usage fee schedules of such switches differ from
10 one another, (iv) automatic teller machine usage fees differ based upon
11 whether the transaction initiated at an automatic teller machine is
12 subject to a surcharge or provided on a surcharge-free basis, (v) the
13 manner in which an establishing financial institution authorizes and
14 directly or indirectly routes Nebraska automatic teller machine
15 transactions results in the same automatic teller machine usage fees for
16 all user financial institutions for essentially the same service routed
17 over the same switch, or (vi) the automatic teller machines established
18 or sponsored by an establishing financial institution are made available
19 for use by Nebraska customers of any user financial institution which
20 agrees to pay the automatic teller machine usage fee and which conforms
21 to the operating rules and technical standards established by the switch
22 to which a Nebraska automatic teller machine transaction is directly or
23 indirectly routed.

24 (c) The director, upon notice and after a hearing, may terminate or
25 suspend the use of any automatic teller machine if he or she determines
26 that the automatic teller machine is not made available on a
27 nondiscriminating basis or that Nebraska automatic teller machine
28 transactions initiated at such automatic teller machine are not made on a
29 nondiscriminating basis.

30 (d) A switch (i) shall provide to all financial institutions that
31 have a main office or approved branch located in the State of Nebraska

1 and that conform to the operating rules and technical standards
2 established by the switch an equal opportunity to participate in the
3 switch for the use of and access thereto; (ii) shall implement the same
4 automatic teller machine usage fee for all user financial institutions
5 for essentially the same service; (iii) shall be capable of operating to
6 accept and route Nebraska automatic teller machine transactions, whether
7 receiving data from an automatic teller machine, an establishing
8 financial institution, or a data processing center; and (iv) shall be
9 capable of being directly or indirectly connected to every data
10 processing center for any automatic teller machine.

11 (e) The director, upon notice and after a hearing, may terminate or
12 suspend the operation of any switch with respect to all Nebraska
13 automatic teller machine transactions if he or she determines that the
14 switch is not being operated in the manner required under subdivision (3)
15 (d) of this section.

16 (f) Subject to the requirement for a financial institution to comply
17 with this subsection, no user financial institution or establishing
18 financial institution shall be required to become a member of any
19 particular switch.

20 (4) Any consumer initiating an electronic funds transfer at an
21 automatic teller machine for which an automatic teller machine surcharge
22 will be imposed shall receive notice in accordance with the provisions of
23 15 U.S.C. 1693b(d)(3)(A) and (B), as such section existed on January 1,
24 2019 ~~2018~~. Such notice shall appear on the screen of the automatic teller
25 machine or appear on a paper notice issued from such machine after the
26 transaction is initiated and before the consumer is irrevocably committed
27 to completing the transaction.

28 (5) A point-of-sale terminal may be established at any point within
29 this state by a financial institution, a group of two or more financial
30 institutions, or a combination of a financial institution or financial
31 institutions and a third party or parties. Such parties may contract with

1 a seller of goods and services or any other third party for the operation
2 of point-of-sale terminals.

3 (6) A seller of goods and services or any other third party on whose
4 premises one or more point-of-sale terminals are established shall not
5 be, solely by virtue of such establishment, a financial institution and
6 shall not be subject to the laws governing, or other requirements imposed
7 on, financial institutions, except for the requirement that it faithfully
8 perform its obligations in connection with any transaction originated at
9 any point-of-sale terminal on its premises.

10 (7) Nothing in this section shall be construed to prohibit nonbank
11 employees from assisting in transactions originated at automatic teller
12 machines or point-of-sale terminals, and such assistance shall not be
13 deemed to be engaging in the business of banking.

14 (8)(a) Annually by September 1, any entity operating as a switch in
15 Nebraska shall file a notice with the department setting forth its name,
16 address, and contact information for an officer authorized to answer
17 inquiries related to its operations in Nebraska.

18 (b) Any entity intending to operate in Nebraska as a switch shall
19 file a notice with the department setting forth its name, address, and
20 contact information for an officer authorized to answer inquiries related
21 to its operations in Nebraska. Such notice shall be filed at least thirty
22 days prior to the date on which the switch commences operations, and
23 thereafter annually by September 1.

24 (9) Nothing in this section prohibits ordinary clearinghouse
25 transactions between financial institutions.

26 (10) Nothing in this section shall prevent any financial institution
27 which has a main chartered office or an approved branch located in the
28 State of Nebraska from participating in a national automatic teller
29 machine program to allow its customers to use automatic teller machines
30 located outside of the State of Nebraska which are established by out-of-
31 state financial institutions or foreign financial institutions or to

1 allow customers of out-of-state financial institutions or foreign
2 financial institutions to use its automatic teller machines. Such
3 participation and any automatic teller machine usage fees charged or
4 received pursuant to the national automatic teller machine program or
5 usage fees charged for the use of its automatic teller machines by
6 customers of out-of-state financial institutions or foreign financial
7 institutions shall not be considered for purposes of determining (a) if
8 an automatic teller machine has been made available or Nebraska automatic
9 teller machine transactions have been made on a nondiscriminating basis
10 for use by Nebraska customers of a user financial institution or (b) if a
11 switch complies with subdivision (3)(d) of this section.

12 (11) An agreement to operate or share an automatic teller machine
13 may not prohibit, limit, or restrict the right of the operator or owner
14 of the automatic teller machine to charge a customer conducting a
15 transaction using an account from a foreign financial institution an
16 access fee or surcharge not otherwise prohibited under state or federal
17 law.

18 (12) Switch fees shall not be subject to this section or be
19 regulated by the department.

20 (13) Nothing in this section shall prevent a group of two or more
21 credit unions, each of which has a main chartered office or an approved
22 branch located in the State of Nebraska, from participating in a credit
23 union service organization organized on or before January 1, 2015, for
24 the purpose of owning automatic teller machines, provided that all
25 participating credit unions have an ownership interest in the credit
26 union service organization and that the credit union service organization
27 has an ownership interest in each of the participating credit unions'
28 automatic teller machines. Such participation and any automatic teller
29 machine usage fees associated with Nebraska automatic teller machine
30 transactions initiated by customers of participating credit unions at
31 such automatic teller machines shall not be considered for purposes of

1 determining if such automatic teller machines have been made available on
2 a nondiscriminating basis or if Nebraska automatic teller machine
3 transactions initiated at such automatic teller machines have been made
4 on a nondiscriminating basis, provided that all Nebraska automatic teller
5 machine transactions initiated by customers of participating credit
6 unions result in the same automatic teller machine usage fees for
7 essentially the same service routed over the same switch.

8 (14) Nebraska automatic teller machine usage fees and any agreements
9 relating to Nebraska automatic teller machine usage fees shall comply
10 with subsection (3) of this section.

11 (15) For purposes of this section:

12 (a) Access means the ability to utilize an automatic teller machine
13 or a point-of-sale terminal to conduct permitted banking transactions or
14 purchase goods and services electronically;

15 (b) Account means a checking account, a savings account, a share
16 account, or any other customer asset account held by a financial
17 institution. Such an account may also include a line of credit which a
18 financial institution has agreed to extend to its customer;

19 (c) Affiliate financial institution means any financial institution
20 which is a subsidiary of the same bank holding company;

21 (d) Automatic teller machine usage fee means any per transaction fee
22 established by a switch or otherwise established on behalf of an
23 establishing financial institution and collected from the user financial
24 institution and paid to the establishing financial institution for the
25 use of the automatic teller machine. An automatic teller machine usage
26 fee shall not include switch fees;

27 (e) Electronic funds transfer means any transfer of funds, other
28 than a transaction originated by check, draft, or similar paper
29 instrument, that is initiated through a point-of-sale terminal, an
30 automatic teller machine, or a personal terminal for the purpose of
31 ordering, instructing, or authorizing a financial institution to debit or

1 credit an account;

2 (f) Essentially the same service means the same Nebraska automatic
3 teller machine transaction offered by an establishing financial
4 institution irrespective of the user financial institution, the Nebraska
5 customer of which initiates the Nebraska automatic teller machine
6 transaction. A Nebraska automatic teller machine transaction that is
7 subject to a surcharge is not essentially the same service as the same
8 banking transaction for which a surcharge is not imposed;

9 (g) Establishing financial institution means any financial
10 institution which has a main chartered office or approved branch located
11 in the State of Nebraska that establishes or sponsors an automatic teller
12 machine or any out-of-state financial institution that establishes or
13 sponsors an automatic teller machine;

14 (h) Financial institution means a bank, savings bank, building and
15 loan association, savings and loan association, or credit union, whether
16 chartered by the department, the United States, or a foreign state
17 agency; any other similar organization which is covered by federal
18 deposit insurance; or a subsidiary of any such entity;

19 (i) Foreign financial institution means a financial institution
20 located outside the United States;

21 (j) Nebraska automatic teller machine transaction means a banking
22 transaction as defined in subsection (1) of this section which is (i)
23 initiated at an automatic teller machine established in whole or in part
24 or sponsored by an establishing financial institution, (ii) for an
25 account of a Nebraska customer of a user financial institution, and (iii)
26 processed through a switch regardless of whether it is routed directly or
27 indirectly from an automatic teller machine;

28 (k) Personal terminal means a personal computer and telephone,
29 wherever located, operated by a customer of a financial institution for
30 the purpose of initiating a transaction affecting an account of the
31 customer;

1 (1) Sponsoring an automatic teller machine means the acceptance of
2 responsibility by an establishing financial institution for compliance
3 with all provisions of law governing automatic teller machines and
4 Nebraska automatic teller machine transactions in connection with an
5 automatic teller machine owned by a nonfinancial institution third party;

6 (m) Switch fee means a fee established by a switch and assessed to a
7 user financial institution or to an establishing financial institution
8 other than an automatic teller machine usage fee; and

9 (n) User financial institution means any financial institution which
10 has a main chartered office or approved branch located in the State of
11 Nebraska which avails itself of and provides its customers with automatic
12 teller machine services.

13 Sec. 4. Section 8-167.01, Revised Statutes Cumulative Supplement,
14 2018, is amended to read:

15 8-167.01 The publication requirements of section 8-167 shall not
16 apply to any bank that makes a disclosure statement available to any
17 member of the general public upon request in compliance with the
18 disclosure of financial information provisions of 12 C.F.R. part 350, as
19 such part existed on January 1, 2019 ~~2018~~.

20 Sec. 5. Section 8-183.04, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 8-183.04 (1) Notwithstanding any other provision of the Nebraska
23 Banking Act or any other Nebraska law, a state or federal savings
24 association which was formed and in operation as a mutual savings
25 association as of July 15, 1998, may elect to retain its mutual form of
26 corporate organization upon conversion to a state bank.

27 (2) All references to shareholders or stockholders for state banks
28 shall be deemed to be references to members for such a converted savings
29 association.

30 (3) The amount and type of capital required for such a converted
31 savings association shall be as required for federal mutual savings

1 associations in 12 C.F.R. 5.21 ~~part 567~~, as such regulation ~~part~~ existed
2 on January 1, 2019 ~~2018~~, except that if at any time the department
3 determines that the capital of such a converted savings association is
4 impaired, the director may require the members to make up the capital
5 impairment.

6 (4) The director may adopt and promulgate rules and regulations
7 governing such converted mutual savings associations. In adopting and
8 promulgating such rules and regulations, the director may consider the
9 provisions of sections 8-301 to 8-384 governing savings associations in
10 mutual form of corporate organization.

11 Sec. 6. Section 8-1,140, Revised Statutes Cumulative Supplement,
12 2018, is amended to read:

13 8-1,140 Notwithstanding any of the other provisions of the Nebraska
14 Banking Act or any other Nebraska statute, any bank incorporated under
15 the laws of this state and organized under the provisions of the act, or
16 under the laws of this state as they existed prior to May 9, 1933, shall
17 directly, or indirectly through a subsidiary or subsidiaries, have all
18 the rights, powers, privileges, benefits, and immunities which may be
19 exercised as of January 1, 2019 ~~2018~~, by a federally chartered bank doing
20 business in Nebraska, including the exercise of all powers and activities
21 that are permitted for a financial subsidiary of a federally chartered
22 bank. Such rights, powers, privileges, benefits, and immunities shall not
23 relieve such bank from payment of state taxes assessed under any
24 applicable laws of this state.

25 Sec. 7. Section 8-209, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 8-209 (1) Any corporation organized to do business as a trust
28 company under the Nebraska Trust Company Act shall make a pledge with the
29 Department of Banking and Finance of approved securities.

30 (2) The amount of securities required to be pledged shall be based
31 on the market value of trust assets held by the trust company as follows:

1 (a) Trust companies with trust assets with a market value of less
2 than twenty-five million dollars shall pledge securities in the amount of
3 one hundred thousand dollars in par value;

4 (b) Trust companies with trust assets with a market value of at
5 least twenty-five million dollars but less than two hundred fifty million
6 dollars shall pledge securities in the amount of two hundred thousand
7 dollars in par value;

8 (c) Trust companies with trust assets with a market value of at
9 least two hundred fifty million dollars but less than two billion five
10 hundred million dollars shall pledge securities in the amount of three
11 hundred thousand dollars in par value;

12 (d) Trust companies with trust assets with a market value of at
13 least two billion five hundred million dollars but less than five billion
14 dollars shall pledge securities in the amount of four hundred thousand
15 dollars in par value; and

16 (e) Trust companies with trust assets with a market value of five
17 billion dollars or more shall pledge securities in the amount of five
18 hundred thousand dollars in par value.

19 (3) A trust company shall determine the market value of its trust
20 assets at the end of each calendar year. If such valuation shows that the
21 pledge of securities is less than is required by subsection (2) of this
22 section, the trust company shall increase the amount of the securities
23 pledged with the department within sixty days following the end of the
24 calendar year.

25 (4) If at any time the market value of pledged assets is determined
26 to have depreciated to less than ninety percent of par value or the trust
27 company has trust funds deposited with itself or its supporting
28 commercial bank in excess of those deposits referred to by section 8-212,
29 the Director of Banking and Finance may require additional pledges in
30 amounts deemed necessary to fully secure pledging requirements or
31 excessive trust fund depository balances.

1 (5) Any national bank authorized by the Office of the Comptroller of
2 the Currency or the Board of Governors of the Federal Reserve System to
3 act in a fiduciary capacity in this state, any out-of-state bank
4 authorized by its home state regulator to act in a fiduciary capacity in
5 this state, any federal savings association authorized by the ~~Office of~~
6 ~~Thrift Supervision or the~~ Office of the Comptroller of the Currency to
7 act in a fiduciary capacity in this state, any federally chartered trust
8 company, any out-of-state trust company authorized under the Interstate
9 Trust Company Office Act or otherwise doing business in this state, and
10 any out-of-state entity acting in a fiduciary capacity in this state
11 shall make similar pledges with the department, and all such deposits
12 held by the department shall be considered as having been lawfully so
13 pledged and subject to the Nebraska Trust Company Act.

14 Sec. 8. Section 8-218, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 8-218 The Department of Banking and Finance or any duly appointed
17 examiner authorized by it may make a full examination into all the books,
18 papers, and affairs of any trust company doing business under the
19 Nebraska Trust Company Act as often as deemed necessary. In so doing, the
20 department shall have power to administer oaths and affirmations and to
21 examine on oath or affirmation the officers, agents, and clerks of the
22 trust company, touching the matter which they may be authorized to
23 inquire into and examine, and to summon and by subpoena compel the
24 attendance of any person or persons in this state to testify under oath
25 in relation to the affairs of the trust company. In lieu of any
26 examination authorized by the laws of this state, the Director of Banking
27 and Finance may accept, in his or her discretion, a report of an
28 examination made of a trust company by the Federal Deposit Insurance
29 Corporation, the Federal Reserve Bank, or the Office of the Comptroller
30 of the Currency ~~Thrift Supervision~~ or he or she may examine any such
31 trust company jointly with any such federal agency.

1 Sec. 9. Section 8-318, Revised Statutes Cumulative Supplement, 2018,
2 is amended to read:

3 8-318 (1)(a) Shares of stock in any association, or in any federal
4 savings and loan association incorporated under the provisions of the
5 federal Home Owners' Loan Act, with its principal office and place of
6 business in this state, may be subscribed for, held, transferred,
7 surrendered, withdrawn, and forfeited and payments thereon received and
8 receipted for by any person, regardless of age, in the same manner and
9 with the same binding effect as though such person were of the age of
10 majority, except that a minor or his or her estate shall not be bound on
11 his or her subscription to stock except to the extent of payments
12 actually made thereon.

13 (b) Whenever a share account is accepted by any building and loan
14 association in the name of any person, regardless of age, the deposit may
15 be withdrawn by the shareholder by any of the following methods:

16 (i) Check or other instrument in writing. The check or other
17 instrument in writing constitutes a receipt or acquittance if the check
18 or other instrument in writing is signed by the shareholder and
19 constitutes a valid release in discharge to the building and loan
20 association for all payments so made; or

21 (ii) Electronic means through:

22 (A) Preauthorized direct withdrawal;

23 (B) An automatic teller machine;

24 (C) A debit card;

25 (D) A transfer by telephone;

26 (E) A network, including the Internet; or

27 (F) Any electronic terminal, computer, magnetic tape, or other
28 electronic means.

29 (c) This section shall not be construed to affect the rights,
30 liabilities, or responsibilities of participants in an electronic fund
31 transfer under the federal Electronic Fund Transfer Act, 15 U.S.C. 1693

1 et seq., as it existed on January 1, 2019 ~~2018~~, and shall not affect the
2 legal relationships between a minor and any person other than the
3 building and loan association.

4 (2) All trustees, guardians, personal representatives,
5 administrators, and conservators appointed by the courts of this state
6 may invest and reinvest in, acquire, make withdrawals in whole or in
7 part, hold, transfer, or make new or additional investments in or
8 transfers of shares of stock in any (a) building and loan association
9 organized under the laws of the State of Nebraska or (b) federal savings
10 and loan association incorporated under the provisions of the federal
11 Home Owners' Loan Act, having its principal office and place of business
12 in this state, without an order of approval from any court.

13 (3) Trustees created solely by the terms of a trust instrument may
14 invest in, acquire, hold, and transfer such shares, and make withdrawals,
15 in whole or in part, therefrom, without any order of court, unless
16 expressly limited, restricted, or prohibited therefrom by the terms of
17 such trust instrument.

18 (4) All building and loan associations referred to in this section
19 are qualified to act as trustee or custodian within the provisions of the
20 federal Self-Employed Individuals Tax Retirement Act of 1962, as amended,
21 or under the terms and provisions of section 408(a) of the Internal
22 Revenue Code, if the provisions of such retirement plan require the funds
23 of such trust or custodianship to be invested exclusively in shares or
24 accounts in the association or in other associations. If any such
25 retirement plan, within the judgment of the association, constitutes a
26 qualified plan under the federal Self-Employed Individuals Tax Retirement
27 Act of 1962, or under the terms and provisions of section 408(a) of the
28 Internal Revenue Code, and the regulations promulgated thereunder at the
29 time the trust was established and accepted by the association, is
30 subsequently determined not to be such a qualified plan or subsequently
31 ceases to be such a qualified plan, in whole or in part, the association

1 may continue to act as trustee of any deposits theretofore made under
2 such plan and to dispose of the same in accordance with the directions of
3 the member and beneficiaries thereof. No association, in respect to
4 savings made under this section, shall be required to segregate such
5 savings from other assets of the association. The association shall keep
6 appropriate records showing in proper detail all transactions engaged in
7 under the authority of this section.

8 Sec. 10. Section 8-346, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 8-346 (1) The Director of Banking and Finance, his or her deputy, or
11 any duly appointed examiner shall have power to make a thorough
12 examination into all the books, records, business, and affairs of every
13 building and loan association organized under the laws of this state as
14 often as deemed necessary. The director may accept in his or her
15 discretion, in lieu of any examination authorized by the laws of this
16 state, a report of an examination made of a building and loan association
17 by the Federal Deposit Insurance Corporation ~~or the Office of Thrift~~
18 ~~Supervision~~, or the director may examine any such association jointly
19 with that ~~either of these federal agency agencies~~.

20 (2) The director may, at his or her discretion, make available to
21 the Federal Deposit Insurance Corporation or the Office of the
22 Comptroller of the Currency Thrift Supervision copies of reports of any
23 such examination or any information furnished to or obtained by him or
24 her in such examination. The rights, powers, duties, and privileges of
25 the director, his or her deputy, or any duly appointed examiner in
26 connection with such examinations shall be the same as is or may be
27 provided by law in reference to the examinations of banks.

28 Sec. 11. Section 8-355, Revised Statutes Cumulative Supplement,
29 2018, is amended to read:

30 8-355 Notwithstanding any of the provisions of Chapter 8, article 3,
31 or any other Nebraska statute, except as provided in section 8-345.02,

1 any association incorporated under the laws of the State of Nebraska and
2 organized under the provisions of such article shall have all the rights,
3 powers, privileges, benefits, and immunities which may be exercised as of
4 January 1, ~~2019~~ 2018, by a federal savings and loan association doing
5 business in Nebraska. Such rights, powers, privileges, benefits, and
6 immunities shall not relieve such association from payment of state taxes
7 assessed under any applicable laws of this state.

8 Sec. 12. Section 8-602, Revised Statutes Cumulative Supplement,
9 2018, is amended to read:

10 8-602 The Director of Banking and Finance shall charge and collect
11 fees for certain services rendered by the Department of Banking and
12 Finance according to the following schedule:

13 (1) For filing and examining articles of incorporation, articles of
14 association, and bylaws, except credit unions, one hundred dollars, and
15 for credit unions, fifty dollars;

16 (2) For filing and examining an amendment to articles of
17 incorporation, articles of association, and bylaws, except credit unions,
18 fifty dollars, and for credit unions, fifteen dollars;

19 (3) For issuing to banks, credit card banks, trust companies, and
20 building and loan associations a charter, authority, or license to do
21 business in this state, a sum which shall be determined on the basis of
22 one dollar and fifty cents for each one thousand dollars of authorized
23 capital, except that the minimum fee in each case shall be two hundred
24 twenty-five dollars;

25 (4) For issuing an executive officer's or loan officer's license,
26 fifty dollars at the time of the initial license ~~and fifteen dollars on~~
27 ~~or before January 15 each year thereafter~~, except credit unions for which
28 the fee shall be twenty-five dollars at the time of the initial license
29 ~~and fifteen dollars on or before January 15 each year thereafter~~;

30 (5) For affixing certificate and seal, five dollars;

31 (6) For making substitution of securities held by it and issuing a

1 receipt, fifteen dollars;

2 (7) For issuing a certificate of approval to a credit union, ten
3 dollars;

4 (8) For investigating the applications required by sections 8-117,
5 8-120, 8-331, and 8-2402 and the documents required by section 8-201, the
6 cost of such examination, investigation, and inspection, including all
7 legal expenses and the cost of any hearing transcript, with a minimum fee
8 under (a) sections 8-117, 8-120, and 8-2402 of two thousand five hundred
9 dollars, (b) section 8-331 of two thousand dollars, and (c) section 8-201
10 of one thousand dollars. The department may require the applicant to
11 procure and give a surety bond in such principal amount as the department
12 may determine and conditioned for the payment of the fees provided in
13 this subdivision;

14 (9) For the handling of pledged securities as provided in sections
15 8-210 and 8-2727 at the time of the initial deposit of such securities,
16 one dollar and fifty cents for each thousand dollars of securities
17 deposited and a like amount on or before January 15 each year thereafter.
18 The fees shall be paid by the entity pledging the securities;

19 (10) For investigating an application to move its location within
20 the city or village limits of its original license or charter for banks,
21 trust companies, and building and loan associations, two hundred fifty
22 dollars;

23 (11) For investigating an application under subdivision (6) of
24 section 8-115.01, five hundred dollars;

25 (12) For investigating an application for approval to establish or
26 acquire a branch pursuant to section 8-157 or 8-2103 or to establish a
27 mobile branch pursuant to section 8-157, two hundred fifty dollars;

28 (13) For investigating a notice of acquisition of control under
29 subsection (1) of section 8-1502, five hundred dollars;

30 (14) For investigating an application for a cross-industry merger
31 under section 8-1510, five hundred dollars;

1 (15) For investigating an application for a merger of two state
2 banks, a merger of a state bank and a national bank in which the state
3 bank is the surviving entity, or an interstate merger application in
4 which the Nebraska state chartered bank is the resulting bank, five
5 hundred dollars;

6 (16) For investigating an application or a notice to establish a
7 branch trust office, five hundred dollars;

8 (17) For investigating an application or a notice to establish a
9 representative trust office, five hundred dollars;

10 (18) For investigating an application to establish a credit union
11 branch under section 21-1725.01, two hundred fifty dollars;

12 (19) For investigating an applicant under section 8-1513, five
13 thousand dollars; and

14 (20) For investigating a request to extend a conditional bank
15 charter under section 8-117, one thousand dollars.

16 Sec. 13. Section 21-17,115, Revised Statutes Cumulative Supplement,
17 2018, is amended to read:

18 21-17,115 Notwithstanding any of the other provisions of the Credit
19 Union Act or any other Nebraska statute, any credit union incorporated
20 under the laws of the State of Nebraska and organized under the
21 provisions of the act shall have all the rights, powers, privileges,
22 benefits, and immunities which may be exercised as of January 1, 2019
23 ~~2018~~, by a federal credit union doing business in Nebraska on the
24 condition that such rights, powers, privileges, benefits, and immunities
25 shall not relieve such credit union from payment of state taxes assessed
26 under any applicable laws of this state.

27 Sec. 14. Section 44-915, Reissue Revised Statutes of Nebraska, is
28 amended to read:

29 44-915 The requirements for initial notice to consumers in
30 subdivision (1)(b) of section 44-904, the opt out in sections 44-907 and
31 44-910, and service providers and joint marketing in section 44-913 do

1 not apply when a licensee discloses nonpublic personal financial
2 information:

3 (1) With the consent or at the direction of the consumer if the
4 consumer has not revoked the consent or direction;

5 (2)(a) To protect the confidentiality or security of a licensee's
6 records pertaining to the consumer, service, product, or transaction;

7 (b) To protect against or prevent actual or potential fraud or
8 unauthorized transactions;

9 (c) For required institutional risk control or for resolving
10 consumer disputes or inquiries;

11 (d) To persons holding a legal or beneficial interest relating to
12 the consumer; or

13 (e) To persons acting in a fiduciary or representative capacity on
14 behalf of the consumer;

15 (3) To provide information to insurance rate advisory organizations,
16 guaranty funds or agencies, agencies that are rating a licensee, persons
17 that are assessing the licensee's compliance with industry standards, and
18 the licensee's attorneys, accountants, and auditors;

19 (4) To the extent specifically permitted or required under other
20 provisions of law and in accordance with 12 U.S.C. 3401 et seq., as such
21 sections federal law existed on January 1, 2019 ~~April 5, 2001~~, to law
22 enforcement agencies, including the Federal Reserve Board, Office of the
23 Comptroller of the Currency, Federal Deposit Insurance Corporation,
24 ~~Office of Thrift Supervision~~, National Credit Union Administration,
25 Consumer Financial Protection Bureau, the Securities and Exchange
26 Commission, the Secretary of the Treasury, with respect to 31 U.S.C.
27 Chapter 53, Subchapter II, and 12 U.S.C. Chapter 21, as such federal laws
28 existed on January 1, 2019 ~~April 5, 2001~~, a state insurance authority, a
29 state banking and state securities authority, and the Federal Trade
30 Commission, to self-regulatory organizations, or for an investigation on
31 a matter related to public safety;

1 (5)(a) To a consumer reporting agency in accordance with 15 U.S.C.
2 1681 et seq., as such ~~sections~~ ~~section~~ existed on January 1, 2019 ~~April~~
3 ~~5, 2001~~; or

4 (b) From a consumer report reported by a consumer reporting agency;

5 (6) In connection with a proposed or actual sale, merger, transfer,
6 or exchange of all or a portion of a business or operating unit if the
7 disclosure of nonpublic personal financial information concerns solely
8 consumers of the business or unit;

9 (7)(a) To comply with federal, state, or local laws, rules, and
10 other applicable legal requirements;

11 (b) To comply with a properly authorized civil, criminal, or
12 regulatory investigation, or subpoena or summons by federal, state, or
13 local authorities;

14 (c) To respond to judicial process or government regulatory
15 authorities having jurisdiction over a licensee for examination,
16 compliance, or other purposes as authorized by law; or

17 (8) For purposes related to the replacement of a group benefit plan,
18 a group health plan, a group welfare plan, or a workers' compensation
19 plan.

20 Sec. 15. Section 45-702, Revised Statutes Cumulative Supplement,
21 2018, is amended to read:

22 45-702 For purposes of the Residential Mortgage Licensing Act:

23 (1) Borrower means the mortgagor or mortgagors under a real estate
24 mortgage or the trustor or trustors under a trust deed;

25 (2) Branch office means any location at which the business of a
26 mortgage banker or mortgage loan originator is to be conducted, including

27 (a) any offices physically located in Nebraska, (b) any offices that,
28 while not physically located in this state, intend to transact business
29 with Nebraska residents, and (c) any third-party or home-based locations
30 that mortgage loan originators, agents, and representatives intend to use
31 to transact business with Nebraska residents;

1 (3) Breach of security of the system means unauthorized acquisition
2 of data that compromises the security, confidentiality, or integrity of
3 the information maintained by the Nationwide Mortgage Licensing System
4 and Registry, its affiliates, or its subsidiaries;

5 (4) Clerical or support duties means tasks which occur subsequent to
6 the receipt of a residential mortgage loan application including (a) the
7 receipt, collection, distribution, and analysis of information common for
8 the processing or underwriting of a residential mortgage loan or (b)
9 communication with a consumer to obtain the information necessary for the
10 processing or underwriting of a residential mortgage loan, to the extent
11 that such communication does not include offering or negotiating loan
12 rates or terms or counseling consumers about residential mortgage loan
13 rates or terms;

14 (5) Control means the power, directly or indirectly, to direct the
15 management or policies of a mortgage banking business, whether through
16 ownership of securities, by contract, or otherwise. Any person who (a) is
17 a director, a general partner, or an executive officer, including the
18 president, chief executive officer, chief financial officer, chief
19 operating officer, chief legal officer, chief compliance officer, and any
20 individual with similar status and function, (b) directly or indirectly
21 has the right to vote ten percent or more of a class of voting security
22 or has the power to sell or direct the sale of ten percent or more of a
23 class of voting securities, (c) in the case of a limited liability
24 company, is a managing member, or (d) in the case of a partnership, has
25 the right to receive, upon dissolution, or has contributed, ten percent
26 or more of the capital, is presumed to control that mortgage banking
27 business;

28 (6) Department means the Department of Banking and Finance;

29 (7) Depository institution means any person (a) organized or
30 chartered under the laws of this state, any other state, or the United
31 States relating to banks, savings institutions, trust companies, savings

1 and loan associations, credit unions, or industrial banks or similar
2 depository institutions which the Board of Directors of the Federal
3 Deposit Insurance Corporation finds to be operating substantially in the
4 same manner as an industrial bank and (b) engaged in the business of
5 receiving deposits other than funds held in a fiduciary capacity,
6 including, but not limited to, funds held as trustee, executor,
7 administrator, guardian, or agent;

8 (8) Director means the Director of Banking and Finance;

9 (9) Dwelling means a residential structure located or intended to be
10 located in this state that contains one to four units, whether or not
11 that structure is attached to real property, including an individual
12 condominium unit, cooperative unit, mobile home, or trailer, if it is
13 used as a residence;

14 (10) Federal banking agencies means the Board of Governors of the
15 Federal Reserve System, the Office of the Comptroller of the Currency,
16 the Consumer Financial Protection Bureau ~~Director of the Office of Thrift~~
17 ~~Supervision~~, the National Credit Union Administration, and the Federal
18 Deposit Insurance Corporation;

19 (11) Immediate family member means a spouse, child, sibling, parent,
20 grandparent, or grandchild, including stepparents, stepchildren,
21 stepsiblings, and adoptive relationships;

22 (12) Installment loan company means any person licensed pursuant to
23 the Nebraska Installment Loan Act;

24 (13) Licensee means any person licensed under the Residential
25 Mortgage Licensing Act as either a mortgage banker or mortgage loan
26 originator;

27 (14) Loan processor or underwriter means an individual who (a)
28 performs clerical or support duties as an employee at the direction of
29 and subject to the supervision and instruction of a person licensed, or
30 exempt from licensing, under the Residential Mortgage Licensing Act or
31 Nebraska Installment Loan Act and (b) does not represent to the public,

1 through advertising or other means of communicating or providing
2 information including the use of business cards, stationery, brochures,
3 signs, rate lists, or other promotional items, that such individual can
4 or will perform any of the activities of a mortgage loan originator;

5 (15) Mortgage banker or mortgage banking business means any person
6 (a) other than (i) a person exempt under section 45-703, (ii) an
7 individual who is a loan processor or underwriter, or (iii) an individual
8 who is licensed in this state as a mortgage loan originator and (b) who,
9 for compensation or gain or in the expectation of compensation or gain,
10 directly or indirectly makes, originates, services, negotiates, acquires,
11 sells, arranges for, or offers to make, originate, service, negotiate,
12 acquire, sell, or arrange for a residential mortgage loan;

13 (16)(a) Mortgage loan originator means an individual who for
14 compensation or gain or in the expectation of compensation or gain (i)
15 takes a residential mortgage loan application or (ii) offers or
16 negotiates terms of a residential mortgage loan.

17 (b) Mortgage loan originator does not include (i) an individual
18 engaged solely as a loan processor or underwriter except as otherwise
19 provided in section 45-727, (ii) a person or entity that only performs
20 real estate brokerage activities and is licensed or registered in
21 accordance with Nebraska law, unless the person or entity is compensated
22 by a lender, a mortgage broker, or other mortgage loan originator or by
23 any agent of such lender, mortgage broker, or other mortgage loan
24 originator, and (iii) a person solely involved in extensions of credit
25 relating to time-share programs as defined in section 76-1702;

26 (17) Nationwide Mortgage Licensing System and Registry means a
27 licensing system developed and maintained by the Conference of State Bank
28 Supervisors and the American Association of Residential Mortgage
29 Regulators for the licensing and registration of mortgage loan
30 originators, mortgage bankers, installment loan companies, and other
31 state-regulated financial services entities and industries;

1 (18) Nontraditional mortgage product means any residential mortgage
2 loan product other than a thirty-year fixed rate residential mortgage
3 loan;

4 (19) Offer means every attempt to provide, offer to provide, or
5 solicitation to provide a residential mortgage loan or any form of
6 mortgage banking business. Offer includes, but is not limited to, all
7 general and public advertising, whether made in print, through electronic
8 media, or by the Internet;

9 (20) Person means an association, joint venture, joint-stock
10 company, partnership, limited partnership, limited liability company,
11 business corporation, nonprofit corporation, individual, or any group of
12 individuals however organized;

13 (21) Purchase-money mortgage means a mortgage issued to the borrower
14 by the seller of the property as part of the purchase transaction;

15 (22) Real estate brokerage activity means any activity that involves
16 offering or providing real estate brokerage services to the public,
17 including (a) acting as a real estate salesperson or real estate broker
18 for a buyer, seller, lessor, or lessee of real property, (b) bringing
19 together parties interested in the sale, purchase, lease, rental, or
20 exchange of real property, (c) negotiating, on behalf of any party, any
21 portion of a contract relating to the sale, purchase, lease, rental, or
22 exchange of real property, other than in connection with providing
23 financing with respect to any such transaction, (d) engaging in any
24 activity for which a person engaged in the activity is required to be
25 registered or licensed as a real estate salesperson or real estate broker
26 under any applicable law, and (e) offering to engage in any activity or
27 act in any capacity described in subdivision (a), (b), (c), or (d) of
28 this subdivision;

29 (23) Registered bank holding company means any bank holding company
30 registered with the department pursuant to the Nebraska Bank Holding
31 Company Act of 1995;

1 (24) Registered mortgage loan originator means any individual who
2 (a) meets the definition of mortgage loan originator and is an employee
3 of (i) a depository institution, (ii) a subsidiary that is (A) wholly
4 owned and controlled by a depository institution and (B) regulated by a
5 federal banking agency, or (iii) an institution regulated by the Farm
6 Credit Administration and (b) is registered with, and maintains a unique
7 identifier through, the Nationwide Mortgage Licensing System and
8 Registry;

9 (25) Registrant means a person registered pursuant to section
10 45-704;

11 (26) Residential mortgage loan means any loan or extension of
12 credit, including a refinancing of a contract of sale or an assumption or
13 refinancing of a prior loan or extension of credit, which is primarily
14 for personal, family, or household use and is secured by a mortgage,
15 trust deed, or other equivalent consensual security interest on a
16 dwelling or residential real estate upon which is constructed or intended
17 to be constructed a dwelling;

18 (27) Residential real estate means any real property located in this
19 state upon which is constructed or intended to be constructed a dwelling;

20 (28) Reverse-mortgage loan means a loan made by a licensee which (a)
21 is secured by residential real estate, (b) is nonrecourse to the borrower
22 except in the event of fraud by the borrower or waste to the residential
23 real estate given as security for the loan, (c) provides cash advances to
24 the borrower based upon the equity in the borrower's owner-occupied
25 principal residence, (d) requires no payment of principal or interest
26 until the entire loan becomes due and payable, and (e) otherwise complies
27 with the terms of section 45-702.01;

28 (29) Service means accepting payments or maintenance of escrow
29 accounts in the regular course of business in connection with a
30 residential mortgage loan;

31 (30) State means any state of the United States, the District of

1 Columbia, any territory of the United States, Puerto Rico, Guam, American
2 Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or
3 the Northern Mariana Islands; and

4 (31) Unique identifier means a number or other identifier assigned
5 by protocols established by the Nationwide Mortgage Licensing System and
6 Registry.

7 Sec. 16. Section 76-2,121, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 76-2,121 For purposes of sections 76-2,121 to 76-2,123:

10 (1) Federally insured financial institution shall mean an
11 institution in which the monetary deposits are insured by the Federal
12 Deposit Insurance Corporation or National Credit Union Administration;

13 (2) Good funds shall mean: (a) Lawful money of the United States;
14 (b) wired funds when unconditionally held by the real estate closing
15 agent or employee; (c) cashier's checks, certified checks, bank money
16 orders, or teller's checks issued by a federally insured financial
17 institution and unconditionally held by the real estate closing agent or
18 employee; or (d) United States treasury checks, federal reserve bank
19 checks, federal home loan bank checks, State of Nebraska warrants, and
20 warrants of a city of the metropolitan or primary class;

21 (3) Real estate closing agent shall mean a person who collects and
22 disburses funds on behalf of another in closing a real estate transaction
23 but shall not include a seller or buyer closing a real estate transaction
24 on his or her own behalf or a lender closing a real estate loan
25 transaction; and

26 (4) Regulating entity shall mean the:

27 (a) Department of Insurance;

28 (b) Supreme Court;

29 (c) State Real Estate Commission;

30 (d) Department of Banking and Finance;

31 (e) Federal Deposit Insurance Corporation;

1 (f) Office of the Comptroller of the Currency ~~Federal Office of~~
2 ~~Thrift Supervision~~;

3 (g) Consumer Financial Protection Bureau;

4 (h) ~~(g)~~ Federal Farm Credit Administration; or

5 (i) ~~(h)~~ National Credit Union Administration.

6 Sec. 17. Section 81-885.01, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 81-885.01 For purposes of the Nebraska Real Estate License Act,
9 unless the context otherwise requires:

10 (1) Real estate means and includes condominiums and leaseholds, as
11 well as any other interest or estate in land, whether corporeal,
12 incorporeal, freehold, or nonfreehold, and whether the real estate is
13 situated in this state or elsewhere;

14 (2) Broker means any person who, for any form of compensation or
15 consideration or with the intent or expectation of receiving the same
16 from another, negotiates or attempts to negotiate the listing, sale,
17 purchase, exchange, rent, lease, or option for any real estate or
18 improvements thereon, or assists in procuring prospects or holds himself
19 or herself out as a referral agent for the purpose of securing prospects
20 for the listing, sale, purchase, exchange, renting, leasing, or optioning
21 of any real estate or collects rents or attempts to collect rents, gives
22 a broker's price opinion or comparative market analysis, or holds himself
23 or herself out as engaged in any of the foregoing. Broker also includes
24 any person: (a) Employed, by or on behalf of the owner or owners of lots
25 or other parcels of real estate, for any form of compensation or
26 consideration to sell such real estate or any part thereof in lots or
27 parcels or make other disposition thereof; (b) who auctions, offers,
28 attempts, or agrees to auction real estate; or (c) who buys or offers to
29 buy or sell or otherwise deals in options to buy real estate;

30 (3) Associate broker means a person who has a broker's license and
31 who is employed by another broker to participate in any activity

1 described in subdivision (2) of this section;

2 (4) Designated broker means an individual holding a broker's license
3 who has full authority to conduct the real estate activities of a real
4 estate business. In a sole proprietorship, the owner, or broker
5 identified by the owner, shall be the designated broker. In the event the
6 owner identifies the designated broker, the owner shall file a statement
7 with the commission subordinating to the designated broker full authority
8 to conduct the real estate activities of the sole proprietorship. In a
9 partnership, limited liability company, or corporation, the partners,
10 limited liability company members, or board of directors shall identify
11 the designated broker for its real estate business by filing a statement
12 with the commission subordinating to the designated broker full authority
13 to conduct the real estate activities of the partnership, limited
14 liability company, or corporation. The designated broker shall also be
15 responsible for supervising the real estate activities of any associate
16 brokers or salespersons;

17 (5) Inactive broker means an associate broker whose license has been
18 returned to the commission by the licensee's broker, a broker who has
19 requested the commission to place the license on inactive status, a new
20 licensee who has failed to designate an employing broker or have the
21 license issued as an individual broker, or a broker whose license has
22 been placed on inactive status under statute, rule, or regulation;

23 (6) Salesperson means any person, other than an associate broker,
24 who is employed by a broker to participate in any activity described in
25 subdivision (2) of this section;

26 (7) Inactive salesperson means a salesperson whose license has been
27 returned to the commission by the licensee's broker, a salesperson who
28 has requested the commission to place the license on inactive status, a
29 new licensee who has failed to designate an employing broker, or a
30 salesperson whose license has been placed on inactive status under
31 statute, rule, or regulation;

1 (8) Person means and includes individuals, corporations,
2 partnerships, and limited liability companies, except that when referring
3 to a person licensed under the act, it means an individual;

4 (9) Team means two or more persons licensed by the commission who
5 (a) work under the supervision of the same broker, (b) work together on
6 real estate transactions to provide real estate brokerage services, (c)
7 represent themselves to the public as being part of a team, and (d) are
8 designated by a team name;

9 (10) Team leader means any person licensed by the commission and
10 appointed or recognized by his or her broker as the leader for his or her
11 team;

12 (11) Subdivision or subdivided land means any real estate offered
13 for sale and which has been registered under the Interstate Land Sales
14 Full Disclosure Act, 15 U.S.C. 1701 et seq., as such act existed on
15 January 1, 1973, or real estate located out of this state which is
16 divided or proposed to be divided into twenty-five or more lots, parcels,
17 or units;

18 (12) Subdivider means any person who causes land to be subdivided
19 into a subdivision for himself, herself, or others or who undertakes to
20 develop a subdivision but does not include a public agency or officer
21 authorized by law to create subdivisions;

22 (13) Purchaser means a person who acquires or attempts to acquire or
23 succeeds to an interest in land;

24 (14) Commission means the State Real Estate Commission;

25 (15) Broker's price opinion means an analysis, opinion, or
26 conclusion prepared by a person licensed under the Nebraska Real Estate
27 License Act in the ordinary course of his or her business relating to the
28 price of specified interests in or aspects of identified real estate or
29 identified real property for the purpose of (a) listing, purchase, or
30 sale, (b) originating, extending, renewing, or modifying a loan in a
31 transaction other than a federally related transaction, or (c) real

1 property tax appeals;

2 (16) Comparative market analysis means an analysis, opinion, or
3 conclusion prepared by a person licensed under the act in the ordinary
4 course of his or her business relating to the price of specified
5 interests in or aspects of identified real estate or identified real
6 property by comparison to other real property currently or recently in
7 the marketplace for the purpose of (a) listing, purchase, or sale, (b)
8 originating, extending, renewing, or modifying a loan in a transaction
9 other than a federally related transaction, or (c) real property tax
10 appeals;

11 (17) Distance education means courses in which instruction does not
12 take place in a traditional classroom setting, but rather through other
13 media by which instructor and student are separated by distance and
14 sometimes by time;

15 (18) Regulatory jurisdiction means a state, district, or territory
16 of the United States, a province of Canada or a foreign country, or a
17 political subdivision of a foreign country, which has implemented and
18 administers laws regulating the activities of a broker;

19 (19) Federal financial institution regulatory agency means (a) the
20 Board of Governors of the Federal Reserve System, (b) the Federal Deposit
21 Insurance Corporation, (c) the Office of the Comptroller of the Currency,
22 (d) the Consumer Financial Protection Bureau ~~Office of Thrift~~
23 ~~Supervision~~, (e) the National Credit Union Administration, or (f) the
24 successors of any of those agencies; and

25 (20) Federally related transaction means a real-estate-related
26 transaction that (a) requires the services of an appraiser and (b) is
27 engaged in, contracted for, or regulated by a federal financial
28 institution regulatory agency.

29 Sec. 18. Section 4A-108, Uniform Commercial Code, Revised Statutes
30 Cumulative Supplement, 2018, is amended to read:

31 4A-108 Relationship to Electronic Fund Transfer Act.

1 (a) Except as provided in subsection (b), this article does not
2 apply to a funds transfer any part of which is governed by the Electronic
3 Fund Transfer Act, 15 U.S.C. 1693 et seq., as such act existed on January
4 1, 2019 ~~2013~~.

5 (b) This article applies to a funds transfer that is a remittance
6 transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C.
7 1693o-1, as such section existed on January 1, 2019 ~~2013~~, unless the
8 remittance transfer is an electronic fund transfer as defined in the
9 Electronic Fund Transfer Act, 15 U.S.C. 1693a, as such section existed on
10 January 1, 2019 ~~2013~~.

11 (c) In a funds transfer to which this article applies, in the event
12 of an inconsistency between an applicable provision of this article and
13 an applicable provision of the Electronic Fund Transfer Act, the
14 provision of the Electronic Fund Transfer Act governs to the extent of
15 the inconsistency.

16 Sec. 19. Original sections 8-209, 8-218, 8-346, 44-915, and
17 76-2,121, Reissue Revised Statutes of Nebraska, sections 8-135, 8-143.01,
18 8-157.01, 8-167.01, 8-183.04, 8-1,140, 8-318, 8-355, 8-602, 21-17,115,
19 45-702, and 81-885.01, Revised Statutes Cumulative Supplement, 2018, and
20 section 4A-108, Uniform Commercial Code, Revised Statutes Cumulative
21 Supplement, 2018, are repealed.

22 Sec. 20. Since an emergency exists, this act takes effect when
23 passed and approved according to law.